

Message Text

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ORIGIN L-03

INFO OCT-01 ARA-06 ISO-00 JUSE-00 SCA-01 /011 R

DRAFTED BY L/M:KEMALMBORG:AD

APPROVED BY L/M:KEMALMBORG

ARA/BR - MS. ELTZ

JUSTICE - MR. STEIN (INFO)

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R 091438Z JAN 76

FM SECSTATE WASHDC

TO AMEMBASSY BRASILIA

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E.O. 11652: N/A

TAGS: PFOR, BR

SUBJECT: EXTRADITION: BEN JACK CAGE

REF: A-20 TO RIO DE JANEIRO FEB. 18, 1970

1. SUMMARY: THERE MAY STILL BE IN BRASILIA SOME INSTITUTIONAL OR PERSONAL MEMORY OF BEN JACK CAGE EXTRADITION CASE, BUT THIS TELEGRAM WILL SUPPLY SHORT RECAP. HIS EXTRADITION TO US WAS REFUSED ON WHAT WE THEN CONSIDERED DUBIOUS LEGAL BASIS AND LONG SERIES OF EFFORTS TO OBTAIN EXPLANATION WERE FRUITLESS. HE NOW APPARENTLY IS IN TROUBLE WITH BRAZILIAN AUTHORITIES, AND TEXAS ATTORNEY GENERAL'S OFFICE HAS INQUIRED ABOUT RENEWED ATTEMPT TO EXTRADITE. DEPARTMENT HAS UNDERTAKEN TO EXPLORE GOB ATTITUDE THROUGH EMBASSY.

2. CAGE WAS CONVICTED OF EMBEZZLEMENT IN TEXAS. SHORTLY AFTER ENTRY INTO FORCE OF US-BRAZIL EXTRADITION TREATY IN 1964, HIS EXTRADITION FROM BRAZIL WAS REQUESTED. BETWEEN CONVICTION AND EXTRADITION REQUEST CAGE WAS NATURALIZED AS BRAZILIAN CITIZEN, AND BRAZIL ULTIMATELY REJECTED OUR
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REQUEST ON THAT GROUND. US HAD DOUBTS THAT EXTRADITION WAS

REALLY PRECLUDED UNDER BRAZILIAN LAW AND THAT IN ANY EVENT
VALIDITY OF NATURALIZATION WAS DOUBTFUL. OVER NEXT SEVERAL

YEARS 1966-1970 US ATTEMPTED TO OBTAIN CLEAR EXPLANATION OF
BASIS FOR REFUSAL. THIS EFFORT WAS NOT SUCCESSFUL.

3. SINCE CASE AROSE WHILE RIO WAS CAPITAL, BRASILIA MAY
NOT HAVE FILES ON CAGE CASE AND NONE OF CURRENT OFFICERS
MAY RECALL CASE. IT PROBABLY IS STILL VIVID IN MINDS OF
BRAZILIAN OFFICIALS. OUR FILES INDICATE DR. RUY MACHADO
DE LIMA IN JUSTICE WAS EMBASSY CONTACT IN CASE. IT MAY BE
USEFUL TO KNOW THAT OUR LATER EFFORTS TO OBTAIN EXPLANATION
OF RELATION OF BRAZILIAN NATIONALITY TO EXTRADITION WERE
NOT EXPLICITLY LINKED TO CAGE CASE; WE HOPED SEPARATION
MIGHT FACILITATE A REPLY.

4. TEXAS ATTORNEY GENERAL'S OFFICE HAS RECENTLY APPROACHED
DEPARTMENT ABOUT RESUBMITTING REQUEST FOR CAGE'S EXTRADI-
TION. THEY HAVE GOTTEN WORD THROUGH LAW ENFORCEMENT
CHANNELS THAT BRAZIL NOW MAY BE AMENABLE TO SENDING CAGE
BACK. BEFORE FORMAL SUBMISSION OF REQUEST, HOWEVER,
DEPARTMENT ADVISED WE SHOULD SOUND OUT BRAZILIANS THROUGH
DIPLOMATIC CHANNELS. THIS BECAUSE PAST BRAZILIAN POSITION
HAS BEEN THAT REFUSAL OF EXTRADITION WAS IN ACCORDANCE
WITH BRAZILIAN LAW, AND CAGE'S CURRENT UNPOPULARITY MAY
NOT OVERCOME PROBABLE RELUCTANCE TO ADMIT THAT ORIGINAL
DECISION WAS WRONG OR IRREGULAR.

5. EMBASSY IS REQUESTED TO APPROACH BRAZILIAN FOREIGN
MINISTRY AND FIND OUT: (A) WHAT BRAZILIAN REACTION WOULD
BE AS POLITICAL MATTER TO REQUEST FOR CAGE'S EXTRADITION,
AND (B) WHAT BRAZILIAN JUSTICE MINISTRY'S PREDICTION OF
CHANCES OF SUCCESS UNDER BRAZILIAN LAW GIVEN CAGE'S PRE-
SUMABLY STILL VALID STATUS AS BRAZILIAN NATIONAL.

6. FOR FURTHER BACKGROUND:

FOUND GUILTY OCTOBER 25, 1957;

TREATY ENTERED INTO FORCE DECEMBER 17, 1964;
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EXTRADITION FORMALLY REQUESTED FEBRUARY 1965;

BRAZILIAN FOREIGN MINISTRY NOTE DENYING EXTRADITION
JUNE 20, 1966.

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